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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

In re J.G., a Person Coming Under the  
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

J.G.,

Defendant and Appellant.

E071988

(Super.Ct.No. SWJ1800151)

OPINION

APPEAL from the Superior Court of Riverside County. Sean Lafferty, Judge.

Affirmed with directions.

Marty V. Miller, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, Arlene A. Sevidal and Andrew Mestman, Deputy Attorneys General, for Plaintiff and Respondent.

The Riverside County District Attorney filed a Welfare and Institutions Code<sup>1</sup> section 602 petition alleging that defendant and appellant J.G. (minor) committed burglary (Pen. Code, § 459) and vandalism (Pen. Code, § 594, subd. (b)(1)). Minor admitted the allegations. A juvenile court placed him on probation for six months, under specified conditions, including that he pay victim restitution in an amount to be determined by the probation department. Subsequently, the court ordered him to pay \$14,838 in victim restitution.

On appeal, minor contends that the court erred in failing to hold a restitution hearing. The People concede, and we agree. Therefore, we remand the matter for the limited purpose of conducting a restitution hearing.

### FACTUAL BACKGROUND

Minor and his cohort went to a high school and vandalized two vending machines. They also shattered a classroom window and smashed 23 computer monitors and five camcorders. Minor's cohort took several cameras before leaving. A district vehicle arrived, and they ran away from the area.

### ANALYSIS

#### The Matter Should Be Remanded for the Limited Purpose of Holding a Restitution

#### Hearing

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<sup>1</sup> All further statutory references will be to the Welfare and Institutions Code unless otherwise noted.

Minor argues the court erred by denying his request for a restitution hearing. The People concede and agree that the matter should be remanded for the limited purpose of holding a restitution hearing, to allow minor to dispute the amount of restitution ordered.

*A. Procedural Background*

On May 29, 2018, minor admitted the allegations that he committed burglary and vandalism, as alleged in the section 602 petition. The court placed him on probation for six months, on specified conditions. It noted there was a discrepancy in the amount of victim restitution being claimed. The court stated that restitution would be determined by the probation department, and it would wait to see what the department had to report back. It then set a review hearing for November 26, 2018.

On July 27, 2018, the probation department filed an Application and Order for Juvenile Victim Restitution, recommending that minor pay restitution in the amounts of \$8,138 to the high school and \$6,700 to Advantage Vending Services.

On September 4, 2018, the juvenile court judge signed the order on the Application and Order for Juvenile Victim Restitution, which stated, “It is ordered.”

On October 23, 2018, the court held a hearing, as the matter was placed on the calendar by minor’s counsel concerning restitution. Minor’s counsel requested the court to set a restitution hearing for December 11, 2018. The court stated that it signed the restitution order on September 4, 2018, and minor’s counsel was now asking to vacate the order. Minor’s mother said she asked the probation department about the restitution, and tried to contact the court, but the court said she had to do everything through her attorney’s office. The court reiterated that once it made an order, it was an order. It then

said it would allow minor's counsel to file an appropriate motion demonstrating why he thought the issue should be revisited. The court added: "And if you have a law that tells me otherwise—or if you want to take it up to the appellate route, you can do that also. But I'm not going to set a restitution hearing because I don't think I have a legal basis to do that, given I already made an order." The court said it would give minor's counsel a chance to work on the situation. Minor's counsel said they could revisit the issue at the November 26, 2018 hearing, so the court stayed collection of the restitution order until then.

The court held the review hearing regarding minor's grant of probation on November 26, 2018. It stated: "We did have restitution on the calendar as well, but I don't believe that needs to be addressed further." The court then proceeded to find that minor successfully completed his term of probation. It dismissed the petition and said "[a]ll the financial obligations remain, and I'll sign a civil order for that judgment." The court signed two "Order[s] for Juvenile Victim Restitution." One of them ordered minor to pay the high school \$8,138, and the other ordered him to pay Advantage Vending Services \$6,700.

#### *B. The Court Erred in Not Holding a Restitution Hearing*

Section 730.6, subdivision (a), provides that "[i]t is the intent of the Legislature that a victim of conduct for which a minor is found to be a person described in Section 602 who incurs an economic loss as a result of the minor's conduct shall receive restitution directly from that minor." Such restitution is to be imposed in the amount of the victim's losses, in "a dollar amount sufficient to fully reimburse the victim or victims

for all determined economic losses incurred as the result of the minor’s conduct.”

(§ 730.6, subd. (h)(1).) The value of economic loss for “stolen or damaged property shall be the replacement cost of like property.” (§ 730.6, subd. (h)(1)(A).) Section 730.6, subdivision (h)(2), provides: “A minor shall have the right to a hearing before a judge to dispute the determination of the amount of restitution.” “This statutory directive is meant to afford the minor a reasonable opportunity to challenge the accuracy or validity of the victims’ claimed losses. It is a crucial part of the overall statutory scheme, necessary to satisfy due process, and ensure fundamental fairness in the determination of the restitution ultimately ordered.” (*In re Brittany L.* (2002) 99 Cal.App.4th 1381, 1391.)

Here, on May 29, 2018, after minor admitted the allegations in the petition, the court ordered the probation department to determine the amount of restitution, then set a review hearing for November 26, 2018. In the interim, the probation department provided notice of the restitution claimed, and the judge signed an order awarding restitution. Minor’s counsel requested a restitution hearing in October, but the court refused to set one because it did not believe it had a legal basis to do so, since it had already signed the order. However, because minor did not have the opportunity to challenge the determination of the amount of restitution, the court should have set a restitution hearing. (§ 730.6, subd. (h)(2).)<sup>2</sup>

Therefore, the matter should be remanded for a restitution hearing.

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<sup>2</sup> In light of our conclusion, we decline to address minor’s second claim that he had a right to be present when the court signed the restitution order in an ex parte proceeding.

DISPOSITION

The restitution order is vacated, and the matter remanded with directions to conduct a restitution hearing, in compliance with section 730.6. In all other respects, the judgment is affirmed.

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McKINSTER  
P. J.

We concur:

RAMIREZ  
P. J.

FIELDS  
J.